

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 AFFINITY GAMING, a Nevada
4 corporation,

5 Plaintiff,

6 vs.

7 TRUSTWAVE HOLDINGS, INC., a
8 Delaware corporation,

9 Defendant.

Case No.: 2:15-cv-02464-GMN-PAL

Chief Judge Gloria M. Navarro

10 STIPULATION GOVERNING THE PRODUCTION OF ELECTRONICALLY
11 STORED INFORMATION AND PAPER DOCUMENTS

12 WHEREAS, it is anticipated by and among counsel for Affinity Gaming (“Affinity”) and
13 counsel for Trustwave Holdings, Inc., (“Trustwave”), (together, the “Parties”), that, during the
14 course of this proceeding and/or appeals (this “Action”), the Parties and certain other persons or
15 entities (“non-Parties”) are likely to produce electronically stored information (“ESI”) in
16 response to requests for documents and subpoenas; and

17 WHEREAS, this Stipulation Governing the Production of Electronically Stored
18 Information and Paper Documents is intended to govern the format in which ESI, as well as hard
19 copy documents and data, are to be produced in the Action;

20 Accordingly, for good cause shown, pursuant to Federal Rules of Civil Procedure 26 and
21 34, the following terms shall govern the handling of all documents and data produced or
22 generated in connection with this Action:

23 1. **General Format of Production.** The Parties shall produce documents either (i) as
24 electronic images with associated text files, metadata, and objective coding, or (ii) in native
25 format, as further described herein.

26 2. **ESI Production.** With respect to production of reasonably accessible ESI:

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- a. E-mail will be produced as image files with related searchable text, metadata (to the extent it exists) and bibliographic information, as described in the Metadata & Requested Field Names set forth in the table below.
- b. Electronic documents including word-processing documents, spreadsheets, presentations and all other non-database electronic documents not specifically discussed elsewhere in this Stipulation will be produced as image files with related searchable text, metadata (to the extent it exists) and bibliographic information as described in the Metadata & Requested Field Names except for:
 - i. Excel files will be produced in native format with related searchable text, metadata (to the extent it exists) and bibliographic information;
 - ii. PowerPoint files will be produced in native format with related searchable text, metadata (to the extent it exists) and bibliographic information;
 - iii. Access databases will be produced in native format with related searchable text, metadata (to the extent it exists) and bibliographic information;
 - iv. Other types of files that do not image properly (*e.g.*, audio or video files) will be produced in native format;
 - v. The parties shall meet and confer to agree on the form of production of ESI (*e.g.* proprietary or unique databases) other than the foregoing.
- c. If specialized software that is not generally commercially available is required to access any produced ESI, the Parties shall make available such ESI for inspection through their own respective electronic systems.
- d. Any ESI that Trustwave reviewed, inspected and/or collected from Affinity Gaming during the course of Trustwave's engagement shall, to the extent feasible, be produced in the same form as it existed when collected.
- e. Any ESI that Mandiant or any other third-party reviewed, inspected and/or collected from Affinity Gaming shall, to the extent feasible, be produced in the same form as it existed at the time of review, inspection and/or collection.

1 3. **Hard Copy (or Paper) Documents.** The Parties shall produce hard-copy documents as
2 image files with related OCR text to the extent such documents are converted into electronic
3 format. All hard-copy documents shall be converted into electronic images for production
4 purposes.

5 4. **Form and Manner of Production.** All production document images will be provided as
6 single-page Tagged Image File Format (“TIFFs” or “.tiff format”). All images generated
7 from hard copy documents shall be scanned as black and white images at 300 DPI resolution
8 and shall be saved and produced in a Group 4 compression single-page “TIFF” format and
9 reflect, without visual degradation, the full and complete information contained on the
10 original document. The Parties shall produce a “load file” that is compatible with a
11 commercially available document management software, such as Concordance or Relativity,
12 to accompany the images, which load file shall include information about where each
13 document begins and ends to facilitate the use of the produced images through a document
14 management or litigation support database system.

15 5. **Document Unitization.** The Parties shall apply unitization practices consistent with the
16 following description. Each page of a hard copy document shall be scanned into an image
17 and if a document is more than one page, the unitization of the document and any
18 attachments shall be maintained as it existed in the original when creating the image file. For
19 documents that contain affixed notes, the pages will be scanned both with and without the
20 notes and those pages will be treated as part of the same document. The relationship of
21 documents in a document collection (e.g., cover letter and enclosures, email and attachments,
22 or other documents where a parent-child relationship exists between the documents) shall be
23 maintained through the scanning or conversion process. If more than one level of parent-
24 child relationship exists, documents will be kept in order, but all will be treated as children of
25 the initial parent document. Such information shall be produced in the load file, as hereafter
26 defined, in a manner to enable the parent-child relationship among documents in a document
27 collection to be reconstituted by the receiving party in commercially available document
28 management software, such as Concordance or Relativity.

1 6. **Color.** Where an original document contains color, the Parties shall honor reasonable
2 requests for the production of a color image of the document.

3 7. **De-Duplication.** Where a single document has more than one identical copy of a
4 document (i.e., the documents are visually the same and contain the same electronic text), the
5 Parties need only produce a single copy of that document; however, the production load file
6 for that single copy must indicate all custodians/locations from which identical copies of that
7 document existed and were collected prior to de-duplication. ESI may be de-duplicated
8 across custodians using industry standard hash values. If a duplicate document exists that is
9 part of a document family, the duplicate will only be removed, pursuant to the terms of this
10 paragraph, if the entire family is removed as a duplicate, i.e. a single document will not be
11 removed from a family even if it is a duplicate.

12 8. **Bates Numbering.** The Parties shall produce imaged documents with a legible, unique
13 page identifier ("Bates Number") electronically "burned" onto the image at a location that
14 does not obliterate, conceal, or interfere with any information from the source document. No
15 other legend or stamp will be placed on the document image other than a confidentiality
16 legend (consistent with any confidentiality protective orders agreed to in the future),
17 redactions (where applicable) and the Bates Number identified above. Any confidential
18 legend shall be "burned" onto the document's image at a location that does not obliterate or
19 obscure any information from the source document. With respect to the identification of files
20 produced in their native format, the Bates Number and confidentiality designations, if any,
21 shall be included in the load file accompanying the production of such native files. Bates
22 Numbered slip sheets shall be provided for each native file produced.

23 9. **File Naming Conventions.** Each page image file shall be named with the unique Bates
24 Number of the page of document, followed by the extension ".TIF". In the event the Bates
25 Number contains a symbol and/or character that cannot be included in a file name, the
26 symbol and/or character will be omitted from the file name.

27 10. **Production Media.** The Parties shall produce documents on CD-ROM, DVD, external
28 hard drive, an FTP or similar type site, or such other readily accessible computer or

1 electronic media (the “Production Media”). Each piece of Production Media shall identify a
 2 production number corresponding to the production volume (e.g., “-001”; “-002”).
 3 Additional information that shall be identified on the Production Media or in an
 4 accompanying letter or email shall include: (1) the case number of the case in which it is
 5 produced, (2) the producing party’s name, and (3) the production date. The type of materials
 6 on the media (e.g., “Documents”, “OCR Text”, “Objective Coding”, etc.) and the Bates
 7 Number range(s) of the materials on the Production Media shall also be contained on the
 8 Production Media, and where not practicable to do so may be provided in an accompanying
 9 letter.

10 **11. Meta-Data and Objective Coding.** The Parties shall produce associated metadata and
 11 objective coding consistent with the description set forth below.

12 **12. OCR/Extracted Text.** The Parties shall produce corresponding Optical Character
 13 Recognition (“OCR”) text files for all hard-copy documents and any electronic documents
 14 that require redaction prior to production. For documents that exist natively in electronic
 15 format that have not been redacted and that are produced as images, the Parties shall produce
 16 extracted text files reflecting the full text that has been electronically extracted from the
 17 original, native electronic files. The OCR and extracted text files shall be produced in ASCII
 18 text format and shall be labeled and produced on Production Media in accordance with the
 19 provisions of paragraph 10. These text files will be named with the unique Bates Number of
 20 the first page of the corresponding document followed by the extension “.txt.” The OCR and
 21 extracted text files shall be produced in a manner suitable for importing the information into
 22 commercially available document management or litigation support software such as
 23 Concordance.

24 **13. Decryption.** The Parties shall take reasonable efforts to ensure that all documents
 25 produced in native format are decrypted.

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METADATA AND REQUESTED FIELD NAMES

Field Name	Field Description	Email/ Calendar Items	Other ESI	Hard Copy
Custodian / Source	Name of custodian(s) or source(s) from which documents/ESI were obtained	X	X	X
Doc ID	Unique value for the document	X	X	X
Beg Doc#	Start Bates Number (including prefix)	X	X	X
End Doc #	End Bates Number (including prefix)	X	X	X
Number of Pages	Page count	X	X	X
Parent ID	Parent's Start Bates Number (including prefix); only parent/child files	X	X	X
Attach ID	Child/children Start Bates Number (including prefix) for each child. This field will be blank if the record is a stand-alone document.	X	X	X
Record Type	Email, Email attachment, E-Doc; E- Doc attachment, Calendar Appointment etc.	X	X	X
Confidentiality	Confidentiality Designation	X	X	X
MD5/SHA1 Hash	Document MD5 or SHA1 has value	X	X	
From	Author of email or calendar item	X		
To	Names of recipients of the email	X		
CC	Names of individuals copied on the email	X		
BCC	Names of individuals blind copied on the email	X		

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Subject	Email or calendar subject	X		
Sent Date	Date email was sent (format YYYYMMDD)	X		
Time Sent	Time email was sent (format YYYYMMDD)	X		
Received Date	Date email was received (format YYYYMMDD)	X		
Time Received	Time email was received	X		
Author	Author value extracted from file metadata		X	
Last Author	Name of last author to modify the document		X	
File Name	File name of native document	X	X	
Doc Title/Subject	Subject field value extracted from file metadata		X	
File Extension	File extension of native file (format YYYYMMDD)	X	X	
File Create Date	Date native file was created (format YYYYMMDD)		X	
File Last Modified Date	Date native file was last modified (format YYYYMMDD)		X	
File Path	File path to native file as it existed in original environment	X	X	

[SEE FOLLOWING SIGNATURE PAGE]

1 DATED this 31st day of March, 2016.

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3 ANGULO & STOBERSKI

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20 IT IS SO ORDERED.

21 IT IS FURTHER ORDERED that counsel shall comply with the requirements of LR
22 6-2 governing the required form of order for stipulations, *ex parte*, or unopposed
23 motions in any future application for relief from the court.

24 Dated: April 6, 2016

REID RUBINSTEIN & BOGATZ

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Peggy A. Leen
United States Magistrate Judge